

**ZONING BOARD OF APPEALS
MINUTES**

DATE: August 4, 2021
TIME: 9:00 a.m.
PLACE: Council Chambers

Chairman Washington: Good Morning, everyone. I'd like to call the Zoning Board of Appeals Meeting to order. Today's date is August 4th. The time right now is 9:01am. Drew, may I get a roll call?

Mr. Crawford: Mr. Kramer?

Mr. Kramer: Present.

Mr. Crawford: Mr. Patterson?

Chairman Washington: He is absent.

Mr. Crawford: Thank you. Mr. Nardini?

Mr. Nardini: Present.

Mr. Crawford: Mr. Radman/Fire

Mr. Radman: Present.

Mr. Crawford: Chairman Washington?

Chairman Washington: Present.

Mr. Crawford: Excellent. We have four members.

Chairman Washington: At this time I'd like to ask for deposition of minutes from the previous Zoning Board of Appeals Meeting?

Mr. Kramer: So moved to approve.

Mr. Nardini: Second.

Mr. Washington: It's been moved and properly second. All those in favor please state 'Aye'?

All: Aye.

Mr. Washington: Any opposed? First item on the—excuse me, to my Law Director, do we need to swear anybody in prior to—okay. Secretary, could you please read the first item on the agenda?

Mr. Crawford: Sure thing. B.A. #15-2021 (held in abeyance from July, 2021 meeting), 822 Broadway, Variance requested to erect a balcony in the public right-of-way. Section 10.19, No buildings, structures, services areas, or off-street parking and loading facilities, except driveways, shall be permitted to encroach on public rights-of-way. M-U (Mixed-Use) zoning. N and H LLC (Jeff Neal/Tony Horn), applicants.

Chairman Washington: Okay. Is there an applicant or representative that needs to come forth to be sworn in?

Mr. Zaleski: Raise your right hand. Do you promise to tell the truth, the whole truth and nothing but the truth?

Both: I do.

Chairman Washington: Gentlemen, please state your name, give your address, and explain the reason for the appeal.

Mr. Neal: Jeff Neal, N H LLC, 822 Broadway Lorain Ohio.

Mr. Giardini: Anthony Giardini, attorney at 520 Broadway Lorain Ohio. I represent the applicant.

Chairman Washington: Thank you, gentlemen. Go ahead and proceed.

Mr. Giardini: I believe, I wasn't here at the initial meeting. I understand that the matter was held in abeyance. I'm not exactly sure what the reason was. To clarify things, my client is seeking only a variance for its deck. Any other issues that may have been brought up during the meeting I don't think are relevant to the issue of the deck. I think the board has a drawing of what is being proposed. Since the deck would arch out over the sidewalk approximately eleven feet it would be supported by posts. The Building Department has previously inspected the footers for the—my client quite frankly thought that this was going to be approved, so they went ahead and ordered the deck and the deck materials. So, it's about \$25,000 invested in the process already. We recognize that we do need a variance. And we do understand some of the issues, we believe all of them have been addressed, including having reasonable access down the sidewalk for the traveling public, even those who might be in a wheelchair or otherwise have some mobility issues. There's at least eleven feet of sidewalk left outside of the—going underneath the proposed deck, and of course then you could travel under the deck as well. In terms of some of the safety issues, I think I will simply point out that any restaurant or liquor establishment was required to have insurance, including liability insurance. One of the things that the insurance agent does right off the bat is inspect the place and look for issues that might be a safety issue. While the city certainly has a right to impose reasonable restrictions with regard to any

variance it may or may not issue. Insurance companies have an absolute right to do it or they won't insure you. So, things like something falling off a deck, as an example, are things that insurance companies think about long before city officials do, because if something happens they're the ones that write the check. My client is prepared to take all of those necessary precautions to make sure that their customers and the public remain safe. With that we'd be happy to answer any other questions.

Chairman Washington: At this time, for the record, for Mr. Giardini and Mr. Neal and also for all board members, I moved for this to be placed in abeyance for me to have some time after my vacation I immediately got back and got presented with some more information that I had not had the opportunity to review prior to that meeting. That's the primary reason why we're here today.

Mr. Giardini: Okay. Thank you.

Chairman Washington: With that being said, I've already reviewed that to my satisfaction and at this point in time are there any questions from any board members?

Mr. Kramer: I have several questions.

Mr. Giardini: Sure.

Mr. Kramer: From my understanding, is Broadway considered Route 57, a state highway?

Mr. Giardini: I think it still is, but I'm not positive.

Mr. Kramer: Has plans been submitted for ODOT for approval for this? To build something in the right of way?

Mr. Giardini: Not that I'm aware of.

Mr. Kramer: From my understanding, the way I've done business with the state. Any time you do anything in the right of way it has to be approved by ODOT.

Mr. Giardini: You may be right. I don't know. I know that there's a jewelry store down the street, I guess you could say encroaches on the right of way, I'm not aware that they got that approval.

Mr. Kramer: I'm sure the signs over Broadway say Lorain Broadway, that's also in the right of way too. I was wondering if that has been approved by the state also.

Mr. Giardini: That's a really good question.

Mr. Kramer: Any permits, any drawings, anything like that.

Mr. Giardini: No—I guess—

Mr. Kramer: Those are my concerns that I've asked.

Mr. Giardini: Sure. I think that's a legitimate question for somebody. I guess, from my perspective, the city can only do what is within its jurisdiction, which is either grant or not grant a variance. And if the city, let's say grants the variance, then The Department of Transportation says "whoa, we don't like this or this is not approved," then my client has a different issue, but it won't be with the city it will be with The State Department of Transportation.

Mr. Kramer: And once you alternate the traffic flow it's a state problem. So, I don't know where the city engineers fall into this, or anything like that. I have no idea. Those are some of the questions that I have.

Mr. Giardini: I mean, we won't be in the roadway itself, but I do understand what you're saying.

Chairman Washington: Thank you, Mr. Giardini. I see we have a representative from our City Engineering Department.

Ms. Golden: Good morning. Kate Golden, City of Lorain Engineering Department.

Mr. Zaleski: Do you promise to tell the truth, the whole truth and nothing but the truth?

Ms. Golden: I do. I'm not aware of that requirement, but that doesn't mean that that's not the case. I would think that Mr. Giardini's comment about that being handled outside would be appropriate. If, when you vote, that could be considered as a contingency. You know, approval contingent on other appropriate approvals.

Chairman Washington: Thank you, Ms. Golden. Any further questions from members of the board?

Mr. Giardini: Just following up on that. We would accept that if the board said we'll grant the variance subject to any other approvals that may be needed. It does require it? It does say that. The city zoning code says that it has to be—could be subject to further approvals. Which makes sense by the way. I don't think you can do something that conflicts with another jurisdiction any more than another jurisdiction can do something that might conflict with what you do.

Mr. Kramer: So, how will the state know what's going on? Do you have to submit a permit or a drawing?

Mr. Giardini: I think—

Mr. Zaleski: For the record, zoning code 19.05 says that in granting a variance the zoning board of appeals may prescribe appropriate conditions and safeguards in conformity with

this zoning code. You can get ahold of ODOT, and have ODOT ask if it's okay and see what they say as a condition of the variance.

Chairman Washington: Should that be handled by our Building Department or Engineering?

Mr. Zaleski: Either the Engineering Department or The Building Department contact ODOT and have them check into that. And that can be a conditionally granted variance subject to the ODOT approval.

Mr. Giardini: It would be a lot better to find out ahead of time then build it and then have them tell us to take it down. So, we'll accept that because I think we would have to anyhow.

Chairman Washington: Okay. Thank you.

Mr. Kramer: How would you want to word that?

Chairman Washington: Basically, as Director Zaleski just presented.

Mr. Zaleski: Subject to the ODOT approving *inaudible*

Mr. Giardini: Assuming that they would have to approve it?

Mr. Zaleski: Yeah.

Mr. Crawford: If that's what the board wanted, we're willing to do that. My department would certainly make sure that ODOT was notified.

Mr. Kramer: I would feel more comfortable with ODOT saying yes and approving that, instead of this board doing this. I'd feel more comfortable with them giving the okay.

Chairman Washington: I think the board can grant the variance contingent on the decision from ODOT. So, at this time I'd like to make a determination, or have a determination made or presented that this variance be granted with the contingency that variance approval from the outside agency ODOT.

Mr. Kramer: I would support that.

Chairman Washington: Okay. Is there a second to that?

Mr. Radman: Second.

Chairman Washington: Okay, it's been moved and properly second that we move with this variance with the contingencies provided. All those in favor please state 'Aye'?

All: Aye

Chairman Washington: Any opposed? The variance is granted based on that contingency.

Mr. Giardini: Thank you very much.

Chairman Washington: You're welcome, sir.

Mr. Neal: Thank you, gentlemen.

Chairman Washington: You're welcome, Mr. Neal. The next item on the agenda?

Mr. Crawford: The next item on the agenda is B.A. #17-2021, 1536 East 30th Street, Variance requested for front and rear setbacks in R-3 (Residential-3) zoning. Section 1.04, High Density Residential, I'm sorry that should read 4.04, my apologies. High Density Residential the district provides—no, I'll confirm that in second, my apologies I think that may be correct. High Density Residential, the district provides for development of a range of housing types, including multi-family units at densities up to 18 units per acre. Section 4.03, Table 4-3, Schedule of Area, Height, and Placement Requirements. Front—30 Feet, Rear—35 Feet. Section 14.02 (C) Shared/Common Parking. Neighborhood Alliance "Haven Center," applicant.

Chairman Washington: Thank you. Is there a representative for the applicant here? You need to be sworn in.

Mr. Zaleski: Raise your right hand. Do you promise to tell the truth, the whole truth and nothing but the truth?

Mr. Cocco and Ms. Floss: I do

Mr. Zaleski: Thank you.

Chairman Washington: Please give your names and address and the reason for the appeal?

Mr. Cocco: Ron Cocco, Clark & Post Architects 6125 S. Broadway. Representing the applicant.

Ms. Foss: Alicia Foss, President and CEO Neighborhood Alliance 1536 East 30th Street in Lorain.

Chairman Washington: Proceed.

Mr. Cocco: So, the purpose of the application, the request for the variance is that Neighborhood Alliance which operates Haven Center at this site, which is some of you may know is the homeless shelter that they run. After the recent COVID outbreak it's been determined that there's a greater need for shelter, and they're looking to expand that facility to accommodate not just men, but women and family as well. So, the nature of the proposed project is to build an addition onto the existing facility plus renovate the existing

structures, the one story shelter facility as well as the three story building that would house more common shared space. The request for the variance is to align the addition to the existing buildings, which already currently encroach onto the both front yard and rear yard set-backs according to the new zoning. As far as parking is concerned, we would request that we be permitted to use the adjacent church property, which is Mount Zion Church, which the zoning code allows for taking up the shortfall that the site and the street parking does not provide. So, with that I'll take any questions.

Chairman Washington: Okay.

Mr. Crawford: If I may? Just for the record there was a typo. The first reference in this B.A. 17-2021 should read Section 4.01e High Density Residential. Just for the record. Thank you.

Chairman Washington: Mr. Cocco and Ms. Foss this is a very good project, much needed one in our community. Thank you and I applaud you for proceeding with this. Any questions from board members?

Mr. Kramer: Motion to approve.

Mr. Nardini: Second.

Chairman Washington: It's been motioned and properly second that this variance be granted. All those in favor please state 'Aye'.

All: Aye.

Chairman Washington: Any opposed? Variance is granted.

Mr. Cocco: Great. Thank you so much.

Ms. Foss: Thank you.

Chairman Washington: Next item on the agenda?

Mr. Crawford: Next item is B.A. #18-2021, 2105 East Erie Avenue, Variance requested to erect an accessory structure on property line. Section 10.28, Accessory Buildings and Uses in R-2 (Residential-2) zoning, three (3) feet side property line setback required. Cliff Waters, applicant.

Chairman Washington: Is there a representative for this request? Please move forward to be sworn in, and give your name and address and reason for your appeal.

Mr. Zaleski: Is there anybody else who would like to testify in this matter? Raise your right hand. Do you promise to tell the truth, the whole truth and nothing but the truth?

Ms. Waters: Yes.

Chairman Washington: Your name and address?

Ms. Waters: Cindy Waters 2105 East Erie Avenue.

Chairman Washington: Okay. Reason for the appeal?

Ms. Waters: Just to build a shed on the property line.

Chairman Washington: Okay. Questions from any board members?

Mr. Crawford: I just want to draw to the board's attention, Mr. Waters has been in touch with me making sure this was done correctly. If I'm not mistaken, the existing small shed is on the property line, which was either built by a long ago variance or the previous zoning code. He's been working with our office. I think he's at work, is that correct?

Ms. Waters: Yes, he is.

Mr. Crawford: In working with our office to make sure that he did the application correctly. And I'll also draw the Commission's attention to the neighboring property owner that does have a letter stating that they are in favor of this. So, it is just a replacement of what is there.

Mr. Washington: Thank you, Mr. Crawford for that information, for the record. Board members, any questions on this matter? I don't see anyone from the audience who may have any statements on this. Board members, I'd like to ask for a determination?

Mr. Radman: I'll make a motion to approve.

Mr. Nardinia: I'll second.

Mr. Washington: Motion has been made and properly second to approve the variance. All those in favor please state 'Aye'?

All: Aye.

Mr. Washington: Any opposed? None opposed. Your variance is granted.

Ms. Waters: Thank you.

Mr. Washington: You have a good day.

Mr. Crawford: And for the record, Ms. Waters the building permit can now be filed because of that, so I'll email you both today just with record of the approval. Thanks.

Ms. Waters: Thank you.

Mr. Washington: Next item on the agenda, Mr. Crawford?

Mr. Crawford: The next item is B.A.#19-2021, 6065 Kyra Lane, Variance requested to erect a patio on public right-of-way. Section 10.19, No buildings, structures, service areas or off-street parking and loading facilities, except driveways, shall be permitted to encroach on public rights-of-way. Planned-Unit-Development (PUD) zoning. Jacob and Meghan Strickler, applicants. Brian Maurer, representative.

Mr. Zaleski: Please raise your hand. Do you promise to tell the truth, the whole truth and nothing but the truth?

Mr. Maurer: I do.

Mr. Zaleski: Thank you.

Mr. Maurer: Brian Maurer, Brian-Kyles, 875 North Ridge Road East, Lorain Ohio 44055. Representative for the client. We're looking to build a patio right off the backyard of the house, or right off the back of the house there. Unfortunately, there happens to be a storm sewer easement that runs right in that same area, so we're just trying to seek a variance just to construct that patio. The homeowner understands that if the city has to do anything in the backyard that they would claim responsibility for it.

Ms. Golden: We have reviewed this application with the applicant. There is a non-descript storm easement in the rear yard. It is for the purposes of rear yard drainage. It is our position that this easement is a private easement held by the H.O.A. although the plot is not specific on that, hence why we requested that it come to you for approval. We want it to be incredibly clear that this is a private property issue, that we have no concerns about the patio being placed over this easement, but should work be required in the future which would require that that patio be removed, the removal and or the replacement would not be at the cost to the city.

Mr. Washington: Thank you so much for that Ms. Golden, and please let's make sure that gets noted in this descriptive.

Mr. Zaleski: I would make that a condition of granting the variance.

Mr. Washington: Thank you, Director Zaleski. Any questions from board members? Seeing none and none from the audience, I'd like to ask for a determination?

Mr. Kramer: I move to approve.

Mr. Nardini: I'll second.

Mr. Kramer: Based on Attorney Zaleski's recommendation.

Mr. Crawford: For the record, may I have the wording of the conditions that we are moving, please?

Ms. Golden: No better way to put me on the spot, right? I would say the removal and or future repair of the patio, in the event that it would need to be removed for maintenance of that pipe, would be at the sole cost of the property owner.

Mr. Crawford: Thank you so much.

Mr. Washington: Now received the proper wording and all, now I would obtain a motion to accept.

Mr. Kramer: So moved to approve.

Mr. Nardini: Second.

Mr. Washington: It's been moved and properly supported that the variance be granted with the conditional statement that Ms. Golden provided. All those in favor please state 'Aye'?

All: Aye.

Mr. Washington: Any opposed? None opposed. The variance is granted based on that contingency.

Mr. Maurer: Thank you very much.

Mr. Washington: You're welcome. Are there any other additional items, Mr. Crawford?

Mr. Crawford: There are no additional items for the Zoning Board of Appeals.

Mr. Washington: I'd like to entertain a motion to adjourn.

Mr. Kramer: I'll make the motion.

Mr. Radman: I'll second.

Mr. Washington: Okay. Motion has been made and properly supported to adjourn. All those in favor please state 'Aye'.

All: Aye.

Mr. Washington: The meeting is adjourned.

Drew Crawford, Planning & Zoning Administrator

Sanford Washington, Chairman

Planning Commission Minutes

DATE: August 4th, 2021
TIME: 9:00 a.m.
PLACE: Council Chambers

Mr. Washington: At this time I'd like to call to order the Planning Board Meeting for the City of Lorain. August 4th, the time is now 9:25 am. I'd like to ask for roll call?

Mr. Crawford: Roll call for the Planning Commission. Mr. Patterson?

Mr. Washington: He's absent.

Mr. Crawford: Mr. Kramer?

Mr. Kramer: Present.

Mr. Crawford: Mr. Nardini?

Mr. Nardini: Present.

Mr. Crawford: Mr. Washington?

Mr. Washington: Present. Chairman Mayor Bradley?

Mr. Washington: He is absent.

Mr. Crawford: We do have a quorum.

Mr. Washington: I'd like to ask for disposition of minutes from the previous Planning Board Meeting?

Mr. Kramer: So moved.

Mr. Nardini: Second.

Mr. Washington: It's been moved and properly supported. All those in favor please state 'Aye'?

All: Aye.

Mr. Washington: Any opposed? Okay. Let's go to the first item on the agenda. And only item on the agenda.

Mr. Crawford: The first and only item for today's Planning Commission is, Z.C.A. #13-2021, Submission for Planning Commission's Recommendation to Lorain City Council, for the rezoning of PPN # 02-00-093-103-004 from I-1 (Industrial-1) to B-1 (Business-1), 329 East 21st Street. Phillip L. Atkinson, applicant.

Mr. Washington: Is the applicant here or a representative for the applicant? Please come to the mic to be sworn in, give your name and address and the reason for your request.

Mr. Zaleski: Raise your right hand, please? Do you promise to tell the truth, the whole truth and nothing but the truth.

Mr. Attkinson: Yes. My name is Phillip L. Atkinson, resident here at Lorain County 329 E.21st Street. I'm here for the variance change and the zoning change, from Industrial-1 to B-1 zoning. We have a family restaurant home based soul food, where we do barbeque ribs and et cetera.

Mr. Washington: Okay. Mr. Crawford, do you have any additional information for this board?

Mr. Crawford: Yeah, I do have a little bit of additional information. Mr. Attkinson has seen a few people in our office, including my colleague Hannah Kiraly for some small business assistance and guidance. If those of you who have looked on a map, but his house is located in a somewhat residential area, but it is zoned Industrial. If I'm not mistaken on either side of you there is vacant land, correct?

Mr. Attkinson: Correct.

Mr. Crawford: So, given his desire to operate a restaurant or a restaurant window out of your house, B-1 was the most appropriate zoning that we came up with because it allows for an upper floor dwelling above a street level business. It's a Conditional Use in B-1 for the Commission's consideration for that. So, that's how we arrived at this. What I didn't have a chance to ask you, but I think Hannah did, is if you have considered having— leasing a space in a business district for your restaurant. So, maybe if you could tell us a little bit more about your interest in having it based out of your home? I'm sure there's a case to be made perhaps for the Commission just tell us a little bit about why specifically this and going with this type of method for opening your business?

Mr. Attkinson: What we have here, we already own the property. We have enough land with the parcel to build an addition to the home. Where we have been doing this we have been operating out of the home. What we have done is we have expanded with clientele/customers, and through the Covid what we want to do is we want to separate this where we have an addition to our side door on our home, which is like an addition like K-Creams. Where they can come to the window, safety, secure. Be able to be serviced and be able to have a great day.

Mr. Washington: Any questions from the board members? I'd like to ask the board for a determination?

Mr. Nardini: I'll make a motion to approve.

Mr. Kramer: Support.

Mr. Washington: It's been moved and properly supported to grant this request. All those in favor please state 'Aye'.

All: Aye.

Mr. Washington: Any opposed? Appeal has been granted.

Mr. Attkinson: Thank you very much, gentlemen.

Mr. Crawford: Thank you, Mr. Attkinson. And just for your information, I'll be in touch. There's a little bit more of a process with this because this does require a public hearing, and there's a thirty day waiting period, and it does require Lorain City Council to vote and approve that. So, it's not official at this time, but it's moving towards the official place. You also do need what's called a Conditional Use Permit, which will have to come back to this board once the zoning has been approved. So, I'll work with you. We'll walk through that. You've done the first step, and I would dare say the hardest step.

Mr. Attkinson: Sounds great. Thank you very much.

Mr. Washington: Okay, have a good day, sir. At this point, there's no other items on the agenda, I'd like to entertain a motion to adjourn?

Mr. Kramer: Motion to adjourn.

Mr. Washington: Motion to adjourn has been moved and properly supported. All those in favor please state 'Aye'.

All: Aye.

Mr. Washington: We are adjourned.

